

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SIMON CRANE SERVICE, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:03CV01781 AGF
)	
MANITEX, INC.,)	
)	
Defendant/Third Party Plaintiff/)	
Counterclaim Defendant,)	
)	
vs.)	
)	
MERTZ, INC.,)	
)	
Third Party Defendant/)	
Counterclaim Plaintiff.)	

ORDER RESETTING CONFERENCE

This matter came before the Court on the motion of Third-Party Defendant/Counterclaim Plaintiff Mertz, Inc. (“Mertz”) to set for trial the counterclaim against Manitex, Inc. (“Manitex”). (Doc. #95). In its motion, Mertz asserted that although the parties had reached a general oral agreement regarding the claims asserted in its counterclaim, the details of a final settlement agreement cannot be reach. As such, Mertz requested that the matter be promptly set for trial.

Manitex, the Third-Party Plaintiff/Counterclaim Defendant, responded (Doc. #98) by stating that although the parties had reached an agreement in principle regarding the third-party claim against Mertz, the parties had been unable to finalize the agreement and settlement and settlement seemed unlikely. Manitex also requested an order resetting the matter for trial and requested a conference to finalize pretrial matters. Three days later, Manitex further asserted (Doc. #99) that it does not oppose the motion of Mertz to set the counterclaim for trial, so long

as the claims are re-consolidated and that the issues raised by the third-party claim would also be addressed.

In response to these filings, the Court scheduled this matter for a conference on December 1, 2005, anticipating that the Court would set a schedule for any pretrial matters that remained and set the case for trial.

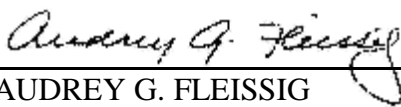
Mertz now asserts, in a document filed on November 30, 2005 (Doc. #101) that the parties did in fact reach a settlement agreement as to both the third party complaint against Mertz and Mertz' counterclaim against Manitex, and has filed a motion to enforce the settlement agreement. Manitex has advised the Court, orally, that it wishes the opportunity to respond to the motion by Mertz to enforce the settlement agreement.

Accordingly,

IT IS HEREBY ORDERED that the conference scheduled for December 1, 2005 at 1:00 p.m. is hereby cancelled.

IT IS FURTHER ORDERED that Manitex shall have until **December 12, 2005** to respond to Mertz' motion to enforce the settlement agreement (Doc. #101).

IT IS FURTHER ORDERED that the Court shall hold a status conference on **Thursday, December 15, 2005, at 9:00 a.m.** Counsel knowledgeable about the case shall attend the status conference.



AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 30th day of November, 2005.